

7-036 2002

Boris Muntyanu Reasons for refusal



Immigration and Nationality Directorate
Integrated Casework Directorate

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Boris Nicolaevich Muntyanu

Our Ref: M1121432

Date of Birth: 23/08/1952

Your Ref:

Nationality: Ukrainian

Date: 28 March 2002

Dear Mr Muntyanu

REASONS FOR REFUSAL

1. You have applied for asylum in the United Kingdom on the grounds that you have a well-founded fear of persecution in Ukraine. In order to qualify for asylum under the terms of the 1951 United Nations Convention relating to the Status of Refugees, to which the United Kingdom is a signatory, an applicant must show that he has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.
2. Your basis of claim is that you have been discriminated and persecuted in Ukraine due to your Roma ethnic origin and your activities involving demand for human rights for Roma. You stated that you were President of the Roma Council, which was high profile position involving holding meetings with the media and senior government officials. You stated that you started experiencing racial discrimination since you completed your studies and were not given job in Moldova and were forced to go to Ukraine. You said that you decided to study for PhD (doctorate in medicine) in Ukraine but were discouraged by the management and did not recommend you in the Institute's Medical factor Tatarinov which you claimed delayed your progress and career in scientific research. You said that you went to Odessa in 1987 but could not live there due to Mafia and decided to go to Russia, Nakhodka in Vladivostok. You said that you became surgeon, in-charge of all operations for the Pacific Oceans fishing fleet and performed the duties on sea in the ship and worked until 1990. You claimed that you were discriminated due to your Roma gypsy ethnicity when you requested them to recommend you for higher education. You said that in 1990 you were transferred to Odessa as a surgeon and remained there until you left for the UK. You said also that you set up an organisation for Roma in Odessa to support your culture, traditions and to develop educational levels in the Roma population. You said that you obtained your doctorate degree in 1998 and became doctor of philosophy in medical science. You said that in March 2000 you became an active participant of British Counsel program in Odessa and were involved, particularly with public relations matters. You said that you were elected as President of an organisation on 6/04/2000

and became well known throughout Ukraine as an extraordinary leader and received a lot of media coverage from the press and television. You said that you started working for the integration of Roma and held meetings with all rectors of the town's universities and that they signed a declaration and the higher education establishment also agreed to support for your programme. You said that in Ukraine anyone involved in human rights activities would become a target for persecution by the state. You claimed that \$200,000 were allocated for the development of the Roma cultural centre which was supposed to be opened in the Black Sea region with the support from the project manager which was never opened. You also claimed that on 14/02/2001 you were the guest speaker of the Ukrainian Department for Human Rights and National Minorities Group and International Studies and had an opportunity to speak. You stated that in your speech you presented your points and reminded that gypsies are an integrated part of the Ukrainian nation that it was necessary to organise a Scientific Socialism Programme of National Integration for the Roma people. You said that you continued your activities in spite of receiving threatening calls from the unknown people to stop your activities. You said that you met with the Head of the Orthodox Church to discuss to form a separate Orthodox Church for Roma but were told that it was not feasible. You claimed that the government of the Ukraine considered you dangerous because you were articulate, educated and have knowledge of international law. You said that you were attacked by the unknown people and were beaten up. You said that you were severely injured and went to the police station to report the incidence but they refused to record saying that you should go to the forensic clinic to record the marks on your body. You claimed that you reported to the nationality department and were assured that they will sort out this matter and that they will support you. You said that you left your country by car and by foot travelling through Poland to Holland which took three months and then took a ferry to come to the UK.

3. Furthermore, you claim to have a right to remain in the United Kingdom under Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.
4. The Secretary of State has considered your application but for the reasons given below has concluded that you do not qualify for asylum.
5. The Secretary of State is aware that the government of Ukraine has taken a clear public stance against xenophobia and has spoken of the need for systematic, considered and constructive steps to strengthen intra-national relations there. With an estimated 130 ethnic minority groups in Ukraine, the maintenance of inter-ethnic calm has been attributed to a consistent government program, aimed at reassuring ethnic minorities concerning their legal status and cultural freedom. Furthermore, the Secretary of State is aware that several laws, as well as the Constitution, guarantee the protection of the rights of minorities in Ukraine.
6. The Secretary of State is also aware that current regulations impose a nation-wide requirement to register at one's workplace and place of residence in order to be eligible for social benefits and that residence without registration carries a fine under the administrative code, but notes that this regulation is rarely enforced. The Secretary of State also knows that all citizens are required to carry internal passports, which contain a stamp indicating residence and matrimonial status.
7. Russians constitute the largest ethnic minority in Ukraine, numbering over 11 million, comprising 22% of the population as a whole, and 70% in Crimea. These high numbers are largely a reflection of the Soviet policy of in-migration of Russians to Ukraine, as part of its Russification programme throughout the Soviet Union. For Russians,

Ukraine was particularly attractive destination, with its good climate and high level of socio-economic and cultural development, together with a familiar linguistic and cultural heritage. With the number of Russians in Ukraine growing from just three million in 1926 to almost ten million in 1979.

8. Regarding your claim for not being given any work while you were transferred to Cancer Institute in Moldova and that you were forced to go back to Ukraine, the Secretary of State notes that by your own account you were employed with the fishing fleet from 1987 until 1990. He further notes that in 1990 you were transferred to Odessa as a surgeon and remained there until you left Ukraine. Considering your service history, the Secretary of State is of the opinion that you have not been discriminated in Ukraine as you claimed.
9. The Secretary of State has carefully considered your claim of being discouraged by the management and that you were not recommended in the Institute's Medical factor Tatarinov which delayed your progress and career in scientific research. However, he notes that you were able to obtain a higher education up to level PhD in medical science in Ukraine. Furthermore, by your own admission you were given great respect and were employed and served in different capacities and on different locations, which clearly proves that you were not only given an opportunity to study freely up to high level but also you were given a fair chance to be employed at respectable post as fleet in charge and as a surgeon. Therefore, the Secretary of State does not consider that the discrimination you alleged you received, would constitute persecution as described in the UNHCR Handbook or as interpreted by the courts.
10. Considering your alleged discrimination while you were member of certain cultural group to promote Roma Gypsies of Ukraine and other social and cultural activities outside your employment, the Secretary of State has observed that you have enjoyed high positions and freely carried out your desired programme and lived a successful life. Furthermore, the Secretary of State does not consider that the various measures of discrimination that you claim to have suffered could reasonably justify a well-founded fear of persecution.
11. Considering position as elected president of the organisation of the Ukraine and becoming well known throughout Ukraine as an extraordinary leader, receiving a lot of media coverage from the press and television, the Secretary of State is of the view that you should have remained in Ukraine and continued your effort for the development and progress of Roma community. He is of the opinion that you have failed to establish the immediate and pressing reasons that forced you to leave your country.
12. The Secretary of State further notes that on 14/02/2001 you were guest speaker of the Ukrainian Department for Human Rights and National Minorities Group and International studies and presented your view points, in favour of the integration programme for the welfare of Roma people. You also admitted that your proposal was listened with interest. By your own admission you further accepted that you carried on your activities and met with the Head of the Orthodox Church to discuss to form a separate Orthodox Church for Roma and founded the first Roma Church and started a Scientific Programme for the integration of Roma. Keeping in view the above statements, the Secretary of State notes that you have never been harassed, persecuted or detained by the Ukrainian authorities. He therefore concludes that you have not demonstrated that you are likely to be of adverse interest to the authorities should you return to Ukraine.

13. The Secretary of State has given due consideration to the document you have submitted, alleged to be the medical report of the treatment you received for the injuries when physically attacked by the unknown people. He is of the opinion that these incidents that you have alleged took place could have been the actions of any member of groups or individuals. The Secretary of State considered that these factors cast doubt on the credibility and veracity of your claim as a whole.
14. In assessing your claim the Secretary of State has given careful consideration to the articles which you have submitted in support of your application but, bearing in mind their very general nature, he is of the opinion that they do not substantially add to your claim.
15. You claimed that Ukrainian authorities considered you as a dangerous person because of your being articulate, educated and having knowledge of international law. The Secretary of State notes that your claim is based purely on supposition and that you have no evidence to suggest that you are a wanted person and the Ukrainian authority want to kill you.
16. Concerning your claim of being attacked by unknown people on 31 March 2001 and non co-operative attitude of the police to register your case, the Secretary of State does not consider that their inability to apprehend the perpetrators can be construed as complicity in, or support for, such attacks. He is aware that the prosecution of such people, when they are arrested, is actively pursued through the courts. The Secretary of State is of the opinion that these incidents that you have alleged took place could have been the actions of any number of groups or individuals and not necessarily the action of security forces as you alleged. Therefore, the Secretary of State believes that you left your country of origin merely on assumption, and came to the United Kingdom to seek international protection.
17. In order to bring yourself within the scope of the United Nations Convention, you would have to show that these incidents were not simply the random actions of individuals but were a sustained pattern or campaign of persecution directed at you which was knowingly tolerated by the authorities, or that the authorities were unable, or unwilling, to offer you effective protection. In the opinion of the Secretary of State, this has not been established in your case. He considers that you could have attempted to seek redress through the proper authorities before seeking international protection.
18. The Secretary of State does not condone any violations of human rights which may have been committed by members of the security forces in Ukraine. However, he considers that these actions arise from failures of discipline and supervision rather than from any concerted policy on the part of the Ukrainian authorities and does not accept that they are evidence of persecution within the terms of the United Nations Convention. The Secretary of State further notes that such violations are not knowingly tolerated by the Ukrainian Government.
19. You claimed that you received threatening call on 9th May 2001 which forced you to decide to leave your country. The Secretary of State had regard to your claim that you were forced to leave Ukraine in fear of your life. If this part of your account were true, he would consider it reasonable for you to have attempted to seek asylum en-route to the United Kingdom in Poland or Holland which are signatories to the 1951 Convention, and its 1967 protocol or any of the other countries, through which you travelled. The Secretary of State takes the view that someone genuinely fleeing persecution would have claimed asylum at the earliest opportunity in order to establish a right of residence in a safe host country. The fact that you did not do so, suggests to

the Secretary of State that you were more interested in securing entry to the United Kingdom than in gaining a place of sanctuary. In the light of this, the Secretary of State does not accept that your actions were wholly consistent with those of someone forced to flee their country of origin in fear of their life.

20. The Secretary of State considers it unusual for you to be claiming asylum alone. You have left your wife and two children in Ukraine and have travelled to the United Kingdom on your own. If you were genuinely fleeing to the United Kingdom for your safety it would seem credible that you would bring your wife and children with you.
21. You have stated that if you are returned to Ukraine you will be tortured but the Secretary of State does not consider that there are substantial grounds for believing that there is a real risk that you would face treatment contrary to Article 3.
22. In light of all the evidence available to him and for the reasons given above, the Secretary of State is not satisfied that you have established a well-founded fear of persecution. Your application is therefore refused under paragraph 336 of HC 395 (as amended) and has been recorded as determined on 28 March 2002.

You are now required to state any reasons for staying in the United Kingdom which were not previously disclosed. Please read the enclosed One-Stop Notice carefully. The reasons must be stated on the Statement of Additional Grounds attached to the Notice of Appeal and these should be returned together (with a copy of the Reasons for Refusal letter and the Notice of Decision) to the address given on the Notice of Appeal.

Help and advice on returning home can be obtained from the International Organisation for Migration. They can be contacted at:

26 Westminster Palace Gardens
Artillery Row
London
SW1P 1RR

Telephone: (020) 7233 0001
Fax: (020) 7233 3001

E-mail: varp@iomlondon.org
Website URL: www.iomlondon.org

Yours sincerely



Mrs T Imtiaz
Integrated Casework Directorate

Encs: